
ENGROSSED HOUSE BILL 2617

State of Washington

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By Representatives Jinkins, S. Hunt, Haler, Appleton, Hope, Moscoso, Harris, Fitzgibbon, Morrell, Sawyer, Bergquist, Pollet, Green, Riccelli, Fey, MacEwen, Freeman, Tarleton, Gregerson, and Santos

Read first time 01/22/14. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to interpreter services; amending RCW 41.56.030 and
2 41.56.510; adding new sections to chapter 39.26 RCW; and creating new
3 sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
6 centralize and consolidate the procurement of spoken language
7 interpreter services and expand the use of language access providers,
8 thereby reducing administrative costs while protecting consumers. The
9 legislature further intends to institute quality controls by
10 establishing an advisory group to advise state agencies on the
11 qualifications, training, and education of state certified spoken
12 language interpreters through the department of social and health
13 services. The legislature further intends to exclude interpreter
14 services for sensory impaired persons from the provisions of this act.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 39.26 RCW
16 to read as follows:

17 (1) The department of social and health services and the health

1 care authority are each authorized to purchase interpreter services on
2 behalf of limited-English speaking applicants and recipients of public
3 assistance.

4 (2) The department of labor and industries is authorized to
5 purchase interpreter services for medical and vocational providers
6 authorized to provide services to limited-English speaking injured
7 workers or crime victims.

8 (3) No later than September 1, 2015, the department of social and
9 health services, the health care authority, and the department of labor
10 and industries must purchase spoken language interpreter services
11 directly from language access providers, or through contracts with
12 scheduling and coordinating delivery organizations, or both. Each
13 department must have at least one contract with an entity that provides
14 interpreter services exclusively through telephonic and video remote
15 technologies.

16 (4) By September 1, 2015, the department of enterprise services
17 must develop and implement a model that all state agencies must use to
18 procure spoken language interpreter services by purchasing directly
19 from language access providers or through contracts with scheduling and
20 coordinating entities, or both. The department must have at least one
21 contract with an entity that provides interpreter services exclusively
22 through telephonic and video remote technologies. If the department of
23 enterprise services determines it is more cost effective or efficient,
24 it may jointly purchase these services with the department of social
25 and health services, the health care authority, and the department of
26 labor and industries as provided in subsection (3) of this section.
27 The department of social and health services, the health care
28 authority, and the department of labor and industries have the
29 authority to procure interpreters through the department of enterprise
30 services if the demand for spoken language interpreters cannot be met
31 through their respective contracts.

32 (5) All language access providers procured under this section must
33 be certified or authorized by the state, or be nationally certified by
34 the certification commission for health care interpreters or the
35 national board for certification of medical interpreters. When a
36 nationally certified, state-certified, or authorized language access
37 provider is not available, a state agency is authorized to contract
38 with a spoken language interpreter with other certifications or

1 qualifications deemed to meet state standards. Nothing in this
2 subsection precludes providing interpretive services through state
3 employees or employees of medical or vocational providers.

4 (6) Nothing in this section is intended to address how state
5 agencies procure interpreters for sensory-impaired persons.

6 (7) For purposes of this section, "state agency" means any state
7 office or activity of the executive branch of state government,
8 including state agencies, departments, offices, divisions, boards,
9 commissions, and correctional and other types of institutions, but
10 excludes institutions of higher education as defined in RCW 28B.10.016,
11 the school for the blind, and the center for childhood deafness and
12 hearing loss.

13 (8) The department of social and health services, the health care
14 authority, the department of labor and industries, and the department
15 of enterprise services may not impose reimbursement rates or
16 obligations established through collective bargaining under RCW
17 41.56.510 in contracts with entities that do not provide interpreter
18 services through language access providers as defined in RCW
19 41.56.030(10).

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 39.26 RCW
21 to read as follows:

22 (1) The department of social and health services shall establish
23 the spoken language interpreter advisory group to advise the
24 departments of social and health services, labor and industries, and
25 enterprise services and the health care authority on the policies,
26 rules, and regulations governing certification and authorization of
27 spoken language interpreters. The secretary, in consultation with the
28 directors, shall make appointments to the advisory group as follows:

29 (a) One designated representative each from the department of
30 social and health services, the department of labor and industries, the
31 department of enterprise services, or a designee department, and the
32 health care authority;

33 (b) Three spoken language interpreters, one of whom must provide
34 interpreter services through telephonic and video remote technologies,
35 initial terms being two serving two years, and one serving three years;

36 (c) One physician licensed by the state under chapter 18.57 or
37 18.71 RCW, who shall serve an initial three-year term;

1 (d) One hospital language access administrator, who shall serve an
2 initial two-year term;

3 (e) Two representatives from immigrant or refugee advocacy
4 organizations, one serving an initial term of one year and the other an
5 initial term of two years;

6 (f) One representative from a labor organization, serving an
7 initial term of two years;

8 (g) One member from the public, serving an initial three-year term;
9 and

10 (h) One representative from the department of social and health
11 services language testing and certification program.

12 (2) After initial appointments, members under subsection (1)(b)
13 through (g) of this section shall serve three-year terms and may be
14 appointed to no more than two sequential terms.

15 (3) Members of the advisory group may be reimbursed for travel
16 expenses as provided in RCW 43.03.050 and 43.03.060.

17 (4) The department of social and health services shall provide
18 staff to the advisory group.

19 (5) The advisory group shall meet as needed or as requested by the
20 director of the department of social and health services.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.26 RCW
22 to read as follows:

23 The advisory group established under section 3 of this act has the
24 following duties:

25 (1) Develop and recommend policies to enhance the quality of
26 interpreters;

27 (2) Evaluate the certification standards used by the state,
28 including the code of ethics, the certification standards of other
29 states, and national certification standards, and make recommendations
30 for improving state certifications and authorizations; and

31 (3) Other duties as requested.

32 **Sec. 5.** RCW 41.56.030 and 2011 1st sp.s. c 21 s 11 are each
33 amended to read as follows:

34 As used in this chapter:

35 (1) "Adult family home provider" means a provider as defined in RCW

1 70.128.010 who receives payments from the medicaid and state-funded
2 long-term care programs.

3 (2) "Bargaining representative" means any lawful organization which
4 has as one of its primary purposes the representation of employees in
5 their employment relations with employers.

6 (3) "Child care subsidy" means a payment from the state through a
7 child care subsidy program established pursuant to RCW 74.12.340 (~~or~~
8 ~~74.08A.340~~)), 45 C.F.R. Sec. 98.1 through 98.17, or any successor
9 program.

10 (4) "Collective bargaining" means the performance of the mutual
11 obligations of the public employer and the exclusive bargaining
12 representative to meet at reasonable times, to confer and negotiate in
13 good faith, and to execute a written agreement with respect to
14 grievance procedures and collective negotiations on personnel matters,
15 including wages, hours and working conditions, which may be peculiar to
16 an appropriate bargaining unit of such public employer, except that by
17 such obligation neither party shall be compelled to agree to a proposal
18 or be required to make a concession unless otherwise provided in this
19 chapter.

20 (5) "Commission" means the public employment relations commission.

21 (6) "Executive director" means the executive director of the
22 commission.

23 (7) "Family child care provider" means a person who: (a) Provides
24 regularly scheduled care for a child or children in the home of the
25 provider or in the home of the child or children for periods of less
26 than twenty-four hours or, if necessary due to the nature of the
27 parent's work, for periods equal to or greater than twenty-four hours;
28 (b) receives child care subsidies; and (c) is either licensed by the
29 state under RCW 74.15.030 or is exempt from licensing under chapter
30 74.15 RCW.

31 (8) "Individual provider" means an individual provider as defined
32 in RCW 74.39A.240(4) who, solely for the purposes of collective
33 bargaining, is a public employee as provided in RCW 74.39A.270.

34 (9) "Institution of higher education" means the University of
35 Washington, Washington State University, Central Washington University,
36 Eastern Washington University, Western Washington University, The
37 Evergreen State College, and the various state community colleges.

1 (10)(a) "Language access provider" means any independent contractor
2 who provides spoken language interpreter services (~~(for department of~~
3 ~~social — and — health — services — appointments — or — medicaid — enrollee~~
4 ~~appointments, or provided these services on or after January 1, 2009,~~
5 ~~and before June 10, 2010, whether paid by a broker, language access~~
6 ~~agency, or the department)), whether paid by a language access agency,
7 broker, or the respective department: (i) For department of social and
8 health services appointments or medicaid enrollee appointments, or who
9 provided these services on or after January 1, 2009, and before June
10 10, 2010; (ii) for department of labor and industries authorized
11 medical and vocational providers, or who provided these services on or
12 after January 1, 2012, and before the effective date of this section;
13 or (iii) for state agencies, or who provided these services on or after
14 January 1, 2012, and before the effective date of this section.~~

15 (b) "Language access provider" does not mean an owner, manager, or
16 employee of a broker or a language access agency, an interpreter under
17 the medicaid administrative match program, or an interpreter appointed
18 or required in a court proceeding pursuant to RCW 2.43.030 or when
19 required by a federal consent decree or settlement agreement.

20 (c) "Department of social and health services appointments" does
21 not include court proceedings.

22 (d) "Medicaid enrollee appointments" does not include medicaid
23 administrative match program appointments or any other service provided
24 pursuant to that program.

25 (11) "Public employee" means any employee of a public employer
26 except any person (a) elected by popular vote, or (b) appointed to
27 office pursuant to statute, ordinance or resolution for a specified
28 term of office as a member of a multimember board, commission, or
29 committee, whether appointed by the executive head or body of the
30 public employer, or (c) whose duties as deputy, administrative
31 assistant or secretary necessarily imply a confidential relationship to
32 (i) the executive head or body of the applicable bargaining unit, or
33 (ii) any person elected by popular vote, or (iii) any person appointed
34 to office pursuant to statute, ordinance or resolution for a specified
35 term of office as a member of a multimember board, commission, or
36 committee, whether appointed by the executive head or body of the
37 public employer, or (d) who is a court commissioner or a court
38 magistrate of superior court, district court, or a department of a

1 district court organized under chapter 3.46 RCW, or (e) who is a
2 personal assistant to a district court judge, superior court judge, or
3 court commissioner. For the purpose of (e) of this subsection, no more
4 than one assistant for each judge or commissioner may be excluded from
5 a bargaining unit.

6 (12) "Public employer" means any officer, board, commission,
7 council, or other person or body acting on behalf of any public body
8 governed by this chapter, or any subdivision of such public body. For
9 the purposes of this section, the public employer of district court or
10 superior court employees for wage-related matters is the respective
11 county legislative authority, or person or body acting on behalf of the
12 legislative authority, and the public employer for nonwage-related
13 matters is the judge or judge's designee of the respective district
14 court or superior court.

15 (13) "Uniformed personnel" means: (a) Law enforcement officers as
16 defined in RCW 41.26.030 employed by the governing body of any city or
17 town with a population of two thousand five hundred or more and law
18 enforcement officers employed by the governing body of any county with
19 a population of ten thousand or more; (b) correctional employees who
20 are uniformed and nonuniformed, commissioned and noncommissioned
21 security personnel employed in a jail as defined in RCW 70.48.020(9),
22 by a county with a population of seventy thousand or more, and who are
23 trained for and charged with the responsibility of controlling and
24 maintaining custody of inmates in the jail and safeguarding inmates
25 from other inmates; (c) general authority Washington peace officers as
26 defined in RCW 10.93.020 employed by a port district in a county with
27 a population of one million or more; (d) security forces established
28 under RCW 43.52.520; (e) firefighters as that term is defined in RCW
29 41.26.030; (f) employees of a port district in a county with a
30 population of one million or more whose duties include crash fire
31 rescue or other firefighting duties; (g) employees of fire departments
32 of public employers who dispatch exclusively either fire or emergency
33 medical services, or both; or (h) employees in the several classes of
34 advanced life support technicians, as defined in RCW 18.71.200, who are
35 employed by a public employer.

36 **Sec. 6.** RCW 41.56.510 and 2010 c 296 s 2 are each amended to read
37 as follows:

1 (1) In addition to the entities listed in RCW 41.56.020, this
2 chapter applies to the governor with respect to language access
3 providers. Solely for the purposes of collective bargaining and as
4 expressly limited under subsections (2) and (3) of this section, the
5 governor is the public employer of language access providers who,
6 solely for the purposes of collective bargaining, are public employees.
7 The governor or the governor's designee shall represent the public
8 employer for bargaining purposes.

9 (2) There shall be collective bargaining, as defined in RCW
10 41.56.030, between the governor and language access providers, except
11 as follows:

12 (a) (~~A statewide unit of all language access providers is~~) The
13 only language access provider units appropriate for purposes of
14 collective bargaining under RCW 41.56.060 are:

15 (i) A statewide unit for language access providers who provide
16 spoken language interpreter services for department of social and
17 health services appointments, or medicaid enrollee appointments;

18 (ii) A statewide unit for language access providers who provide
19 spoken language interpreter services for injured workers or crime
20 victims receiving benefits from the department of labor and industries;
21 and

22 (iii) A statewide unit for language access providers who provide
23 spoken language interpreter services for any state agency through the
24 department of enterprise services, excluding language access providers
25 included in (a)(i) and (ii) of this subsection;

26 (b) The exclusive bargaining representatives of language access
27 providers in the units specified in (a) of this subsection shall be the
28 representatives chosen in (~~an~~) elections conducted pursuant to RCW
29 41.56.070.

30 Bargaining authorization cards furnished as the showing of interest
31 in support of any representation petition or motion for intervention
32 filed under this section are exempt from disclosure under chapter 42.56
33 RCW. The public employment relations commission may not certify any
34 bargaining unit under subsection (2)(a)(ii) and (iii) of this section
35 before January 1, 2014;

36 (c) Notwithstanding the definition of "collective bargaining" in
37 RCW 41.56.030(4), the scope of collective bargaining for language
38 access providers under this section is limited solely to: (i) Economic

1 compensation, such as the manner and rate of payments; (ii)
2 professional development and training; (iii) labor-management
3 committees; and (iv) grievance procedures. Retirement benefits are not
4 subject to collective bargaining. By such obligation neither party may
5 be compelled to agree to a proposal or be required to make a concession
6 unless otherwise provided in this chapter;

7 (d) In addition to the entities listed in the mediation and
8 interest arbitration provisions of RCW 41.56.430 through 41.56.470 and
9 41.56.480, the provisions apply to the governor or the governor's
10 designee and the exclusive bargaining representative of language access
11 providers, except that:

12 (i) In addition to the factors to be taken into consideration by an
13 interest arbitration panel under RCW 41.56.465, the panel shall
14 consider the financial ability of the state to pay for the compensation
15 and benefit provisions of a collective bargaining agreement;

16 (ii) The decision of the arbitration panel is not binding on the
17 legislature and, if the legislature does not approve the request for
18 funds necessary to implement the compensation and benefit provisions of
19 the arbitrated collective bargaining agreement, the decision is not
20 binding on the state;

21 (e) Language access providers do not have the right to strike;

22 (f) If a single employee organization is the exclusive bargaining
23 representative for two or more units, upon petition by the employee
24 organization, the units may be consolidated into a single larger unit
25 if the public employment relations commission considers the larger unit
26 to be appropriate. If consolidation is appropriate, the public
27 employment relations commission shall certify the employee organization
28 as the exclusive bargaining representative of the new unit;

29 (g) If a single employee organization is the exclusive bargaining
30 representative for two or more bargaining units, the governor and the
31 employee organization may agree to negotiate a single collective
32 bargaining agreement for all of the bargaining units that the employee
33 organization represents.

34 (3) Language access providers who are public employees solely for
35 the purposes of collective bargaining under subsection (1) of this
36 section are not, for that reason, employees of the state for any other
37 purpose. This section applies only to the governance of the collective

1 bargaining relationship between the employer and language access
2 providers as provided in subsections (1) and (2) of this section.

3 (4) Each party with whom the department of social and health
4 services, the department of labor and industries, and the department of
5 enterprise services contracts for language access services and each of
6 their subcontractors shall provide to the respective department an
7 accurate list of language access providers, as defined in RCW
8 41.56.030, including their names, addresses, and other contact
9 information, annually by January 30th, except that initially the lists
10 must be provided within thirty days of (~~June 10, 2010~~) the effective
11 date of this section. The departments shall, upon request, provide a
12 list of all language access providers, including their names,
13 addresses, and other contact information, to a labor union seeking to
14 represent language access providers.

15 (5) If a language access provider cannot be procured through a
16 bargaining unit, a state agency is authorized to contract with any
17 spoken language interpreter provider.

18 (6) This section does not create or modify:

19 (a) The (~~department's~~) obligation of any state agency to comply
20 with (~~the~~) federal statutes and regulations; and

21 (b) The legislature's right to make programmatic modifications to
22 the delivery of state services under chapter 74.04 or 39.26 RCW or
23 Title 51 RCW. The governor may not enter into, extend, or renew any
24 agreement under this chapter that does not expressly reserve the
25 legislative rights described in this subsection.

26 (~~(6)~~) (7) Upon meeting the requirements of subsection (~~(7)~~) (8)
27 of this section, the governor must submit, as a part of the proposed
28 biennial or supplemental operating budget submitted to the legislature
29 under RCW 43.88.030, a request for funds necessary to implement the
30 compensation and benefit provisions of a collective bargaining
31 agreement entered into under this section or for legislation necessary
32 to implement the agreement.

33 (~~(7)~~) (8) A request for funds necessary to implement the
34 compensation and benefit provisions of a collective bargaining
35 agreement entered into under this section may not be submitted by the
36 governor to the legislature unless the request has been:

37 (a) Submitted to the director of financial management by October

1 1st prior to the legislative session at which the requests are to be
2 considered, except that, for initial negotiations under this section,
3 the request may not be submitted before July 1, 2011; and

4 (b) Certified by the director of financial management as
5 financially feasible for the state or reflective of a binding decision
6 of an arbitration panel reached under subsection (2)(d) of this
7 section.

8 ~~((+8))~~ (9) The legislature must approve or reject the submission
9 of the request for funds as a whole. If the legislature rejects or
10 fails to act on the submission, any collective bargaining agreement
11 must be reopened for the sole purpose of renegotiating the funds
12 necessary to implement the agreement.

13 ~~((+9))~~ (10) If, after the compensation and benefit provisions of
14 an agreement are approved by the legislature, a significant revenue
15 shortfall occurs resulting in reduced appropriations, as declared by
16 proclamation of the governor or by resolution of the legislature, both
17 parties shall immediately enter into collective bargaining for a
18 mutually agreed upon modification of the agreement.

19 ~~((+10))~~ (11) After the expiration date of any collective
20 bargaining agreement entered into under this section, all of the terms
21 and conditions specified in the agreement remain in effect until the
22 effective date of a subsequent agreement, not to exceed one year from
23 the expiration date stated in the agreement.

24 ~~((+11))~~ (12) In enacting this section, the legislature intends to
25 provide state action immunity under federal and state antitrust laws
26 for the joint activities of language access providers and their
27 exclusive bargaining representative to the extent the activities are
28 authorized by this chapter.

29 NEW SECTION. **Sec. 7.** If any part of this act is found to be in
30 conflict with federal requirements that are a prescribed condition to
31 the allocation of federal funds to the state, the conflicting part of
32 this act is inoperative solely to the extent of the conflict and with
33 respect to the agencies directly affected, and this finding does not
34 affect the operation of the remainder of this act in its application to
35 the agencies concerned. Rules adopted under this act must meet federal

1 requirements that are a necessary condition to the receipt of federal
2 funds by the state.

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